

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

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ESBIN & ALTER, LLP,

Plaintiff,

Dkt. No. 08 Civ. 313 (SCR)

-- against --

PAUL ZAPPIER and ADVANCED TRADE
SETTLEMENT, LLC,

Defendants.
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STIPULATION AND ORDER

WHEREAS, plaintiff Esbin & Alter, LLP ("Plaintiff") and defendants Paul Zappier and Advanced Trade Settlement, LLC (collectively, "Defendants") have exchanged responses to the parties' respective first sets of interrogatories and document requests, and have designated witnesses for initial depositions;

WHEREAS, counsel for the parties have conferred regarding several issues pertaining to the discovery materials that have been produced to date and how best sensibly to proceed with discovery at this juncture;

WHEREAS, the parties concur that, in order to maximize efficiency, limit potentially unnecessary litigation, and to conserve judicial resources, prior to proceeding with depositions, Plaintiff's expert computer program consultant should conduct a preliminary analysis of Defendants' computer software, which, *inter alia*, Plaintiff has alleged in this action to infringe Plaintiff's copyrighted program; and

WHEREAS, the parties wish to avoid potentially unnecessary litigation regarding the designation of certain information as "Highly Confidential – Attorney's Eyes Only" under the

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provisions of the Confidentiality Order governing such matters in this action, and further wish to avoid, to the extent possible, disruption of Defendants' business while simultaneously taking appropriate steps to safeguard Plaintiff's property interests;

NOW, THEREFORE, it is hereby stipulated and agreed, by and between counsel for Plaintiff and Defendants that:

1. In order to permit Plaintiff's expert computer program consultant to complete a preliminary analysis of Defendants' computer software before the parties proceed with additional discovery, the parties shall postpone the commencement of depositions until no earlier than May 15, 2008. By mutual agreement, the parties may commence depositions before May 15, 2008.

2. Plaintiff's counsel may advise Plaintiff's principals of the fact that Defendants are currently negotiating with Misys, Inc., for the sale of Defendants' computer software to Misys for approximately \$6 million.


3. Defendants shall notify Plaintiff no less than five (5) business days in advance of consummating or closing any transaction between Defendants and Misys involving Defendants' computer software.

4. Plaintiff shall refrain from contacting or seeking to depose any representative of Misys, Inc., until such time as Plaintiff has deposed all other potential witnesses identified by Plaintiff in connection with Plaintiff's anticipated motion for a preliminary injunction.

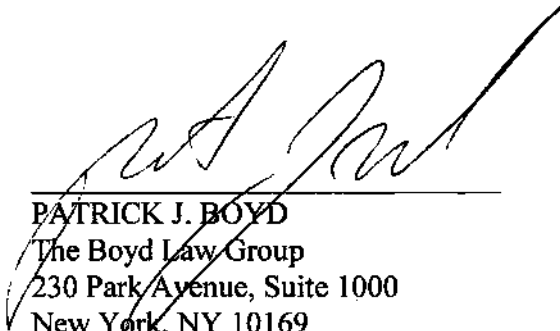
5. This stipulation and order, and the provisions contained within it, shall not preclude any party from seeking any form of relief, nor prejudice any party in requesting such relief. Nor shall anything in this stipulation and order preclude any party from challenging any discovery response provided by any other party, requesting or moving to compel additional

discovery materials, or seeking a protective order from the Court with regard to any requested documents or deposition witnesses.

Dated: April 15, 2008

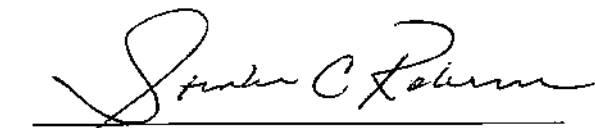


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SO ORDERED:


UNITED STATES DISTRICT JUDGE
4/23/08